IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 63 of 2000

Date of decision: 24.4.2007

Dila Ram ..Petitioner

Versus

H.P.T.D.C & another. ….Respondents

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge

Whether approved for reporting?

For the Petitioners: Ms. Bhawna Dutta, Advocate.

For Respondent No.1 : Mr. D.K.Khanna, Advocate.

Per Deepak Gupta, J (Oral)

The petitioner has filed the present writ petition, challenging the order of the learned H.P.State Administrative Tribunal, in OA-46/90 dated 13.8.1999.

The genesis of the controversy is very short. Admittedly, the petitioner and the private-respondent both have a common name, 'Dila Ram'. Both were appointed as drivers in the respondent-Corporation on 12th April, 1977. It is also an admitted case that whereas respondent-Dila Ram was appointed as driver for Heavy Commercial Vehicle in the pay scale of Rs. 130-200, the petitioner Dila Ram was appointed as driver for Staff Car/Jeep in the pay scale of Rs.100-160. Therefore, admittedly the respondent at the time of appointment was getting higher salary then the petitioner.

It is also an admitted fact that later on all the categories of drivers were merged together and were given a common pay-scale. The case of the petitioner is that once the pay-

scale of all the drivers were merged together, at that time he should have been assigned seniority above the respondent since both were appointed on the same date and the petitioner is senior in age.

We are unable to accept this argument. No doubt, the petitioner is senior in age. The respondent-corporation has admitted the mistake with regard to the date of birth in the reply filed before the learned Tribunal. However, the question is whether a person who was initially appointed in a higher grade and scale of pay on the basis of merit drawn up in a common interview/test could be later placed junior to a person who as per merit had been granted a post of driver in a lower grade and scale of pay. The stand of the respondent-Corporation that when all the categories of those drivers were merged into a single category, the drivers in the higher grade and scale of pay were placed en bloc senior to the drivers in the lower grade and scale of pay, is just reasonable. There is nothing arbitrary in the said action. The petitioner and respondent had appeared in same interview/test and the respondent was higher in merit and was thus given higher scale of pay. The mere fact that the scales of pay have been merged would not be ground to deny to the respondent the benefit of his merit at the time of interview. The order of the learned Tribunal is just and reasonable and calls for no interference.

Writ petition is dismissed. No order as to costs.

(Deepak Gupta), J.

April 24, 2007 (Surinder Singh), J.
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